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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,370	11/08/2001	Kaoru Shibata	0445-0311P	5145

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EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

72-11

## Office Action Summary

Application No.

09/986,370

Applicant(s)

SHIBATA ET AL.

Examiner

D. S. Nakarani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,17-22,24,25 and 27-30 is/are rejected.
- 7) ☒ Claim(s) 23 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8 & 9.                      6) ☐ Other: \_\_\_\_\_

**DEATAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2 and 4-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 3-4, the phrase "a strength at 5% elongation in the longitudinal direction of 150 cN/10 mm or less" can not be understood since dimension for strength is normally per unit area. Clarification and/or correction requested.

4. Claims 1, 2, 4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashida et al (U. S. Patent 6,117,553).

Hayashida et al disclose a multilayer film comprising a layer of a blend of polypropylene homopolymer and hydrogenated styrene butadiene rubber. The film has

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elongation at break in longitudinal direction 90% (Example 4, Table 1). Hayashida et al also suggest addition of tackifier (col. 10, line 58).

5. Claims 1, 2 and 4-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Seta et al (DE 19749765A1, Herein U. S. Patent Application Publication 2003/0120014 A1 to Seta et al is used as a translation).

Seta et al disclose a film comprising a layer of a blend of polypropylene and linear low density polyethylene. The film has elongation at break 92% or less (Table 2, Examples 3-8). Seta et al do not set forth the composition of linear low density polyethylene. Seta et al disclose a copolymer of ethylene and C<sub>3-10</sub>-alpha-olefin (Page 3, paragraph 0044). The linear low density polyethylene Moatec 0138N of Idemitsu Petro Chemical Co. deemed to be a copolymer of ethylene and alpha olefin having 4 or more carbon unless shown otherwise. In an event linear low density polyethylene has propylene as an alpha olefin, a person of ordinary skill in the art at the time of this invention made would have found it obvious to utilize linear low density polyethylene having C<sub>4</sub> or higher alpha olefin as co monomer for flexibility.

6. Claims 17-22, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiner (U. S. Patent 4,339,495).

Weiner discloses a multilayer film comprising substrate layer comprising a blend of polypropylene and polybutene (col. 2 lines 3-16 and 61-66) and heat sealable layer

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made of a blend of propylene-butene-1 copolymer and polybutene-1 (col. 2 lines 20-23).

Weiner also disclose a biaxial orientation of a multi-layer film (Examples 5-8).

7. Claims 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Babrowicz et al (EP 0597 502 A2).

Babrowicz et al. disclose a biaxially oriented multi layer film (Page 5, lines 8-26) comprising outer layers of propylene homopolymer or copolymer and core layer of ethylene alpha olefin copolymer (claims 14 and 15). The invention as claimed reads on film having no surface roughness.

8. Claims 11-16 are allowed.

9. Claims 23 and 26 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Receipt of Information Disclosure Statement filed May 2, 2003 and June 16, 2003 is acknowledged and have been made of record.

11. Applicant's arguments with respect to claims 1 and 2 have been considered but are moot in view of the new ground(s) of rejection.


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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is 703-308-2413. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J. Thibodeau can be reached on 703-308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

D. S. Nakarani/mn  
August 27, 2003

  
**D. S. NAKARANI**  
**PRIMARY EXAMINER**